

Federal Communications Commission

DA 02-3216

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Lockney, Texas)

Quitaque, Texas)

(Turkey, Texas)

MB Docket No. 02-368
RM-10610

MB Docket No. 02-369
RM-10611

MB Docket No. 02-370 ✓
RM-10612

NOTICE OF PROPOSED RULE MAKING

Adopted: December 4, 2002

Released: December 9, 2002

Comment Date: January 30, 2003

Reply Date: February 14, 2003

By the Assistant Chief, Audio Division:

1. Before the Commission for consideration is a multiple docket *Notice of Proposed Rule Making* setting forth three separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. The request to allot Channel 272A at Quitaque, Texas, is mutually-exclusive with both the proposal to allot Channel 271C3 at Lockney, Texas, and the proposal to allot Channel 269A at Turkey, Texas. In each instance, the petitioner has stated that he or she will apply for the requested channel, if allotted. Each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket *Notice of Proposed Rule Making* issued in accordance with the Commission's *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rulemaking*. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the *Public Notice*, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MB Docket No. 02-368; RM-10610

Petitioner: Linda Crawford
3500 Maple Avenue, #1 320
Dallas, Texas 75219

Proposal: Allot Channel 271C3 at Lockney, Texas as the community's first local FM service

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Lockney, Texas	--	271C3

Coordinates: 34-05-27 NL and 101-24-24 WL

Additional Information: Channel 271C3 can be allotted to Lockney with a site restriction of 4.8 km (3.0 miles) southeast of Lockney at the reference coordinates indicated above. This proposal *is* mutually-exclusive with a later-filed proposal to add Channel 272A at Quitque, Texas, as described below.

Petitioner states that Lockney is an incorporated city with a population of 2,048 persons. Petitioner states that Lockney has its own mayor, school system, post office, fire department, city hall, and a number of local churches.

FCC Contact: Dehorah A. Dupont (202) 418-7072

B. MB Docket No. 02-369; RM-10611:

Petitioner: Maurice Salsa
5615 Evergreen Valley Drive
Kingwood, TX 75345

Proposal: Allot Channel 272A at Quitaque, Texas as the community's first local FM service

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Quitaque, Texas	--	272A

Coordinates: 34-25-51 NL and 100-55-25 WL

Additional Information: Channel 272A can be allotted to Quitaque with a site restriction of 14.2 km (8.8 miles) northeast of Quitaque at the reference coordinates indicated above. The proposed allotment is mutually-exclusive with both the proposal to add Channel 271C3 at Lockney, Texas (described above) and the proposal to add Channel **269A** at Turkey, Texas (**described** below).

Petitioner states that Quitaque is an incorporated community with a population of 470 persons. Petitioner further states that Quitaque has its own mayor, fire department, post office, school district, city hall, and

a number of local churches

FCC Contact: Deborah A. Dupont (202)418-7072

C. MB Docket No. 02-370; RM-10612:

Petitioner: Linda Crawford
3500 Maple Avenue, #1320
Dallas, Texas 75219

Proposal: Allot Channel 269A at Turkey, Texas as the community's **first** local FM service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Turkey, Texas	--	269A

Coordinates: 34-17-32 NL and 100-59-52 WL

Additional Information: Channel 269A can be allotted to Turkey with a site restriction of 14.5 n (9.0 miles) southwest of Turkey at the reference coordinates indicated above. This proposal is mutually-exclusive with the proposal to add Channel 272A at Quitque, Texas, as described above.

Petitioner states that Turkey is an incorporated city with a population of 551 persons. Petitioner states that Lockney has its own mayor, school system, post office, volunteer fire department, city hall, and a number of local churches.

FCC Contact: Deborah A. Dupont (202)418-7072

3. Comments, reply comments, counterproposals and other pleadings filed in response to this **Notice of Proposed Rule Making** should reference the docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before **January 13, 2003**, and reply comments on or before **January 28, 2003**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554. Additionally, due to the interrelated nature of these three proceedings, we shall require parties in **any** of the proceedings to serve parties **in** the other two **proceedings**. **Initially**, copies of all filings in any of the three proceedings should be served on Linda Crawford and Maurice Salsa, **at** their respective addresses.

5. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. All envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules.¹

7. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau, at (202)418-7072. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in the particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

¹ See Certification that Section 601 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 Fed.Reg. 11549 (February 9, 1981).

APPENDIX

1. Pursuant to authority contained in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM (TV) Table of Allotments, Section 73.202(b) (73.606(b)) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. The proponent will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257), at its headquarters, 445 Twelfth Street, SW., Washington, D.C.